

IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

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SHAWN HORSFORD,	)	
	)	) LAW NO.
Plaintiff,	)	
	)	
vs.	)	
	)	
NORDSTROM DISTRIBUTION	)	<b>ORIGINAL NOTICE</b>
MANAGEMENT, INC. AND	)	
MULGREW OIL AND PROPANE d/b/a	)	
MULGREW OIL CO. a/d/b/a CHASE OIL	)	
a/d/b/a CORDES OIL,	)	
	)	
Defendants.	)	

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TO THE ABOVE-NAMED DEFENDANTS:

You are hereby notified that there is now on file in the office of the clerk of the above court a petition in the above-entitled action, a copy of which petition is attached hereto. THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING. Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption for the court, you must file your Appearance and Answer electronically. You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM: <http://www.iowacourts.state.ia.us/Efile>

FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURTS RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>

The Plaintiff's attorney is Ben Long whose address is Suite 1140, 425 Second Street SE, Cedar Rapids, Iowa, 52401; (319) 365-9200.

You are further notified that unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter e-file a motion or answer, in the Iowa District Court for Dubuque County, at the courthouse in Dubuque, Iowa, judgment by default will be rendered against you for the relief demanded in the petition.

If you need assistance to participate in court due to a disability, call the disability coordinator at (319) 833-3332 and ask for Lena Heit of email [lena.heit@iowacourts.gov](mailto:lena.heit@iowacourts.gov).

**EXHIBIT A**

Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). Disability coordinators cannot provide legal advice.

NOTE: The attorney who is expected to represent the defendant should be promptly advised by defendants of the service of this notice.

**STATE OF IOWA JUDICIARY**

*Case No.* LACV111113

*County* Dubuque

*Case Title* HORSFORD V NORDSTROM ET AL

**THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.**

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

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*Scheduled Hearing:*

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at **(319) 833-3332** . (If you are hearing impaired, call Relay Iowa TTY at **1-800-735-2942**.)

*Date Issued* 09/11/2020 02:14:59 PM



*District Clerk of* Dubuque

*County*

/s/ Chandal Gehin

IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

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SHAWN HORSFORD,	)	)
	)	) LAW NO.
Plaintiff,	)	)
	)	)
vs.	)	)
	)	)
NORDSTROM DISTRIBUTION	)	<b>PETITION AT LAW AND JURY</b>
MANAGEMENT, INC. AND	)	<b>DEMAND</b>
MULGREW OIL AND PROPANE d/b/a	)	
MULGREW OIL CO. a/d/b/a CHASE OIL	)	
a/d/b/a CORDES OIL,	)	
	)	
Defendants.	)	

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THE PLAINTIFF, for his cause of action against Defendants, states as follows:

**COMMON ALLEGATIONS**

1. At all times material hereto, Plaintiff Shawn Horsford was a resident of Gainesville, Florida.
2. At all times material hereto, upon information and belief, Defendant Nordstrom Distribution Management, Inc. (herein after referred to as Nordstrom), was an Iowa Code 490 foreign profit doing business in the State of Iowa.
3. At all times material hereto, upon information and belief, Defendant Mulgrew Oil and Propane d/b/a Mulgrew Oil Co a/d/b/a Chase Oil a/d/b/a Cordes Oil (herein after referred to as Mulgrew Oil) was an Iowa Code 490 domestic profit doing business in the State of Iowa.
4. All events giving rise to these proceedings occurred at a Nordstrom fuel site in Dubuque, Iowa.
5. Upon information and belief, Mulgrew Oil maintains the Nordstrom fuel site.

6. On or about September 15, 2018, Plaintiff Shawn Horsford stopped his truck to fill the tank with fuel. As he was attempting to fuel the truck, the fuel line burst, exposing him to fuel.

7. Plaintiff sustained permanent injuries and damages as a result of the fuel exposure, including, but not limited to:

- a. Past, present and future pain and suffering;
- b. Past, present and future disability;
- c. Lost earnings and lost earning capacity;
- d. Past, present and future medical expenses.

8. The amount in controversy exceeds the jurisdictional amounts.

#### **COUNT I – NEGLIGENCE**

Plaintiff Shawn Horsford, for his cause of action against Defendants Nordstrom and Mulgrew Oil states as follows:

9. Plaintiff Shawn Horsford repleads paragraphs 1 through 8 as if fully set forth herein.

10. Defendants Nordstrom and Mulgrew Oil were generally negligent and specifically negligent in one or more of the following particulars:

- a. Failing to properly maintain fuel line;
- b. Failing to properly inspect fuel line;
- c. Failing to properly repair fuel line;
- d. Failing to follow the standards in the industry in fuel lines;
- e. Being responsible for other unsafe conditions in its fuel lines in manners

which may become known through discovery.

11. Defendants' negligence was the sole or a concurrent cause of Plaintiff's injuries and damages.

12. As a result of the negligence of Defendant Nordstrom, Plaintiff Shawn Horsford will continue to suffer injuries and damages.

WHEREFORE, Plaintiff Shawn Horsford prays for judgment against Defendants Nordstrom and Mulgrew Oil in an amount that will fully, fairly, and adequately compensate him for the injuries and damages, together with interest as provided for by law and the costs of this action, and any other relief the Court deems just and necessary.

#### **COUNT II – RES IPSA LOQUITUR**

Plaintiff Shawn Horsford, for his cause of action against Defendants Nordstrom and Mulgrew Oil states as follows:

13. Plaintiff Shawn Horsford repleads paragraphs 1 through 12 as if fully set forth herein.

14. The injury to Plaintiff Shawn Horsford was caused by the fuel line used Plaintiff and under the executive control of Defendants Nordstrom and Mulgrew Oil.

15. Defendants Nordstrom and Mulgrew Oil were negligent in the care and maintenance of the fuel line because fuel lines do not malfunction in the manner that caused Plaintiff's injuries in the absence of ordinary care.

16. Defendants' negligence was the sole or concurrent cause of Plaintiff's injuries and damages.

17. As a result of the negligence of Defendants Nordstrom and Mulgrew Oil, Plaintiff Shawn Horsford will continue to suffer injuries and damages.

WHEREFORE, Plaintiff Shawn Horsford prays for judgment against Defendants Nordstrom and Mulgrew Oil in an amount that will fully, fairly and adequately compensate him for the injuries and damages, together with interest as provided for by law and the costs of this action, and any other relief the Court deems just and necessary.

**JURY DEMAND**

Plaintiff requests a jury trial on all issues triable to a jury.

*/s/ Benjamin P. Long*  
\_\_\_\_\_  
Benjamin P. Long AT0010155  
**RSH LEGAL**  
425 2<sup>nd</sup> St SE, Suite 1140  
Cedar Rapids, IA 52401  
Phone: (319) 365-9200  
Fax: (319) 365-1114  
[blong@fightingforfairness.com](mailto:blong@fightingforfairness.com)  
ATTORNEYS FOR PLAINTIFF

Original filed.

## AFFIDAVIT OF SERVICE

Case: LACV111113	Court: IN THE IOWA DISTRICT COURT	County: FOR DUBUQUE COUNTY	Job: 4870978
Plaintiff / Petitioner: SHAWN HORSFORD		Defendant / Respondent: NORDSTROM DISTRIBUTION MANAGEMENT, INC. AND MULGREW OIL AND PROPANE d/b/a MULGREW OIL CO. a/d/b/a CHASE OIL a/d/b/a CORDES OIL	
Received by: Iowa Process Service		For: RSH Legal (Riccolo, Semelroth & Henningsen PC)	
To be served upon: Mulgrew Oil and Propane d/b/a Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil c/o Thomas J. Flogel, Registered Agent			

I, chris schultz, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Amy Osterberger, Controller for Mulgrew Oil and Propane d/b/a Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil c/o Thomas J. Flogel, Registered Agent, 10314 Silverwood Dr, Dubuque, IA 52003

Manner of Service: Authorized, Sep 15, 2020, 1:50 pm CDT

Documents: Original Notice, Petition at Law and Jury Demand (Received Sep 14, 2020 at 1:01pm CDT)

## Additional Comments:

1) Served: Sep 15, 2020, 1:50 pm CDT at 10314 Silverwood Dr, Dubuque, IA 52003 received by Amy Osterberger, Controller for Mulgrew Oil and Propane d/b/a Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil c/o Thomas J. Flogel, Registered Agent. Age: 38-48; Ethnicity: Caucasian; Gender: Female; Weight: 135; Height: 5'4"; Hair: Brown;

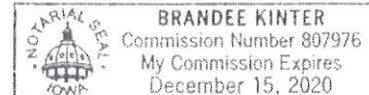
*Subscribed and sworn to before me by the affiant who is personally known to me.*

/s/Chris Schultz  
chris schultz

09/15/2020  
Date

Iowa Process Service  
1604 Country Club Road  
Indianola, IA 50125

*Brandee Kinter*  
Notary Public  
September 15, 2020 12-15-20  
Date Commission Expires



## AFFIDAVIT OF SERVICE

Case: LACV111113	Court: IN THE IOWA DISTRICT COURT	County: FOR DUBUQUE COUNTY	Job: 4870953
Plaintiff / Petitioner: SHAWN HORSFORD		Defendant / Respondent: NORDSTROM DISTRIBUTION MANAGEMENT, INC. AND MULGREW OIL AND PROPANE d/b/a MULGREW OIL CO. a/d/b/a CHASE OIL a/d/b/a CORDES OIL	
Received by: Iowa Process Service		For: RSH Legal (Riccolo, Semeiroth & Henningsen PC)	
To be served upon: Nordstrom Distribution Management, Inc. c/o Iowa Secretary of State, Registered Agent			

I, Adam Heater, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Dianne Burdette for Nordstrom Distribution Management, Inc. c/o Iowa Secretary of State, Registered Agent, Lucas State Office Bldg: 321 E Walnut St, Des Moines, IA 50309  
 Manner of Service: Registered Agent, Sep 16, 2020, 11:45 am CDT  
 Documents: Original Notice, Petition at Law and Jury Demand, Cover Letter to the Iowa Secretary of State (Received Sep 14, 2020 at 1:01pm CDT)

## Additional Comments:

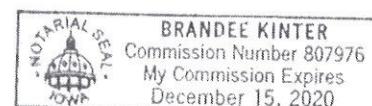
1) Served: Sep 16, 2020, 11:45 am CDT at Lucas State Office Bldg: 321 E Walnut St, Des Moines, IA 50309 received by Dianne Burdette for Nordstrom Distribution Management, Inc. c/o Iowa Secretary of State, Registered Agent.  
 I spoke to Dianne at the Secretary of State on the phone to ensure I had everything she needed and she had me just slip it all under the door.

*Subscribed and sworn to before me by the affiant who is personally known to me.*

/s/Adam Heater 09/16/2020  
 Adam Heater Date

Iowa Process Service  
 1604 Country Club Road  
 Indianola, IA 50125

Brandee Kinter  
 Notary Public  
September 16, 2020 12-15-20  
 Date Commission Expires



IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

**SHAWN HORSFORD,**  
Plaintiff,

vs.

01311LACV111113

**NORDSTROM DISTRIBUTION  
MANAGEMENT, INC. and  
MULGREW OIL AND PROPANE d/b/a  
MULGREW OIL CO. a/d/b/a CHASE OIL  
a/d/b/a CORDES OIL,**  
Defendants.

**ANSWER AND  
JURY DEMAND**

**COMES NOW** Defendant Mulgrew Oil and Propane d/b/a, Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil, by and through its attorneys, and for its answer to Plaintiff's Petition at Law and Jury Demand:

1. Defendant denies paragraph 1 for lack of information.
2. Defendant admits paragraph 2.
3. Defendant admits paragraph 3.
4. Defendant admits paragraph 4.
5. Defendant denies paragraph 5.
6. Defendant denies paragraph 6 for lack of information.
7. Defendant denies paragraph 7 including all subparagraphs.
8. Defendant denies paragraph 8 for lack of information.

**COUNT I – NEGLIGENCE**

9. Defendant repleads and restates paragraphs 1 through 8.
10. Defendant denies paragraph 10 including all subparagraphs.
11. Defendant denies paragraph 11.
12. Defendant denies paragraph 12.

**COUNT II – RES IPSA LOQUITUR**

13. Defendant repleads and restates paragraphs 1 through 12.
14. Defendant denies paragraph 14.
15. Defendant denies paragraph 15.
16. Defendant denies paragraph 16.
17. Defendant denies paragraph 17.

**WHEREFORE**, Defendant Mulgrew Oil and Propane d/b/a, Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil respectfully requests the Court dismiss Plaintiff's Petition at Law and Jury Demand at Plaintiff's cost.

**JURY DEMAND**

Defendant Mulgrew Oil and Propane d/b/a, Mulgrew Oil Co. a/d/b/a Chase Oil a/d/b/a Cordes Oil requests trial by jury on all issues so triable.

FUERSTE, CAREW,  
JUERGENS & SUDMEIER, P.C.

By: /s/ Jenny L. Weiss  
Jenny L. Weiss, AT0009397

By: /s/ Jessica L. McNamara  
Jessica L. McNamara, AT0013092  
890 Main Street, Suite 200  
Dubuque, IA 52001  
Phone: (563) 556-4011  
Fax: (563) 556-7134  
Email: [jweiss@fuerstelaw.com](mailto:jweiss@fuerstelaw.com)  
[jmcnamara@fuerstelaw.com](mailto:jmcnamara@fuerstelaw.com)

ATTORNEY FOR DEFENDANT MULGREW  
OIL AND PROPAGE d/b/a MULGREW OIL CO.  
a/d/b/a CHASE OIL a/d/b/a CORES OIL

IAWA DISTRICT COURT  
DUBUQUE COUNTY

SHAWN HORSFORD,

Plaintiff,

vs.

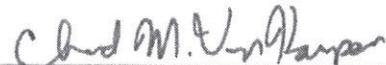
NORDSTROM DISTRIBUTION  
MANAGEMENT, INC. and  
MULGREW OIL AND PROPANE d/b/a  
MULREW OIL CO. a/d/b/a CHASE OIL  
a/d/b/a CORDES OIL,

Defendants.

NO. LACV111113

APPEARANCE

COMES NOW the undersigned and hereby enters his appearance on behalf of  
Defendant Nordstrom Distribution Management, Inc. in the above-entitled matter.



Chad M. VonKampen - AT0008087  
Simmons Perrine Moyer Bergman PLC  
115 Third Street SE, Suite 1200  
Cedar Rapids, Iowa 52401  
Tel: 319-366-7641  
Fax: 319-366-1917  
Email: [cvonkampen@spmblaw.com](mailto:cvonkampen@spmblaw.com)  
ATTORNEYS FOR DEFENDANT NORDSTROM  
DISTRIBUTION MANAGEMENT, INC.

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2020, I electronically filed the foregoing document with the Clerk of Court using the EDMS system which will send notification of such filing to registered system participants.

